



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/806,794	04/04/2001	Larry D. Bass	20407-67855	7793

7590 09/22/2004

Barnes & Thornburg
11 South Meridian Street
Indianapolis, IN 46204

EXAMINER

HAYES, JOHN W

ART UNIT	PAPER NUMBER
----------	--------------

3621

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/806,794

Applicant(s)

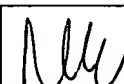
BASS, LARRY D.

Examiner

John W Hayes

Art Unit

3621



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 June 2004.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 47-85 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 47-85 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Art Unit: 3621

DETAILED ACTION

Status of Claims

1. Claims 1-46 have been canceled and new claims 47-85 added in the amendment filed 04 June 2004. Thus, claims 47-85 remain pending and are presented for examination.

Response to Arguments

2. Applicant's arguments filed 04 June 2004 have been fully considered, however, are moot based upon the new grounds of rejection.

Claim Rejections – 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 47-67 are rejected under 35 U.S.C. 102(b) as being anticipated by Shah et al, U.S. Patent No. 6,636,122.

As per **Claims 47-67**, Shah et al disclose a dispatch management system for maintaining information on the status of vehicles, the system including:

- a host for displaying status information of orders for delivery (Figures 10-11; Col. 13, lines 10-18; Col. 15, lines 4-10; Col. 17, lines 12-27);
- a terminal coupled to the host for entry of an order for dispatch of a vehicle (Figure 8; Col. 8 line 55-Col. 9 line 15; Col. 11, lines 1-15; Col. 12, lines 35-45; Col. 13, lines 4-15; Col. 14, lines 15-19), the order including (i) origination data identifying the location where the vehicle is to be picked up (Figure 10; Col. 13 line 55-Col. 14 line 15), (ii) destination data for identifying the location where the vehicle is to be

Art Unit: 3621

delivered (Figure 10; Col. 13 line 55-Col. 14 line 15), wherein the terminal is configured to communicate with the host to update the status information displayed by the host based on the order (Figures 10-11; Col. 15, lines 10-56);

- an apparatus for generating machine-readable code (Figures 8, 10-11; Col. 6, lines 14-20).

Furthermore, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, *In re Danly*, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ2d 1647 (Bd Pat. App. & Inter. 1987). Thus, the structural limitations of claim 1, including a host and at least one terminal coupled to the host are disclosed in Shah et al as described above. Thus, the functional limitations related to storing particular types of information such as origination data, destination data, vehicle identification data, time stamp, order data, whether the vehicle is drivable or a key is available do not further distinguish the structure of the system.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 47-49, 53-70 and 74-85 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shah et al, U.S. Patent No. 5,636,122 in view of Jones, U.S. Patent Application Publication No. US 2003/0233190 A1.

As per **Claims 47, 57, 68 and 77**, Shah et al disclose a system for managing deliveries comprising:

Art Unit: 3621

- a host for displaying status information of orders for delivery (Figures 10-11; Col. 13, lines 10-18; Col. 15, lines 4-10; Col. 17, lines 12-27).
- a terminal coupled to the host for entry of an order for dispatch of a vehicle (Figure 8; Col. 8 line 55-Col. 9 line 15; Col. 11, lines 1-15; Col. 12, lines 35-45; Col. 13, lines 4-15; Col. 14, lines 15-19), the order including (i) origination data identifying the location where the vehicle is to be picked up (Figure 10; Col. 13 line 55-Col. 14 line 15), (ii) destination data for identifying the location where the vehicle is to be delivered (Figure 10; Col. 13 line 55-Col. 14 line 15), wherein the terminal is configured to communicate with the host to update the status information displayed by the host based on the order (Figures 10-11; Col. 15, lines 10-56).

Shah et al fail to disclose vehicle identification data for identifying which vehicle is to be picked up and delivered. Jones discloses a dispatch and delivery management system and teach wherein a user may enter an order for a package to be delivered and wherein the order includes package identification numbers to identify which package is to be picked up and delivered (0095; 0110; 0120). It would have been obvious to one having ordinary skill in the art at the time of applicant's invention to modify the method of Shah et al and include package identification numbers in the package delivery order to ensure that the correct package is picked up and delivered by the delivery service.

Shah et al and Jones fail disclose the pickup and delivery of packages, however, fail to explicitly disclose vehicle identification data for identifying which vehicle is to be picked up and delivered. However, the various types or elements of data that can be stored or maintained by the system such as vehicle identification data are directed to non-functional descriptive material and are not functionally involved in the steps recited. The steps of storing or maintaining various types or forms of data would be performed the same regardless of the descriptive material since none of the steps explicitly interact therewith. Limitations that are not functionally interrelated with the useful acts, structure, or properties of the claimed invention carry little or no patentable weight. Thus, this descriptive material will not further distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Art Unit: 3621

Therefore, it would also have been obvious to a person of ordinary skill in the art at the time of applicant's invention to store or maintain any type or form of data because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

As per **Claims 48 and 69**, Shah et al further disclose wherein the information includes a time stamp for indicating when a transaction is ordered by a customer (Figure 10; Col. 14, lines 50-55; Col. 16, lines 33-36).

As per **Claims 49 and 70**, Shah et al further disclose wherein the information includes whether placement of the order by the customer is complete (Col. 15, lines 4-35)

As per **Claim 53-54 and 74-75**, Shah et al further disclose an apparatus for generating machine-readable code such as a vehicle identifier for updating vehicle information (Figures 5, 8, 10-11; Col. 6, lines 14-33).

As per **Claims 55 and 76**, Shah et al further disclose wherein the order includes information such as information on the status of the vehicle including vehicle original location as well as destination location and other information (Figures 10-11).

As per **Claim 56**, Shah et al further disclose wherein the terminal includes a terminal for updating the dispatch status (Figure 10-11; Col. 15, lines 4-10, Col. 17, lines 12-27).

As per **Claim 58**, Shah et al further disclose wherein the host includes a host for updating the status information (Figures 10-11, Col. 15, lines 4-10; Col. 17, lines 12-27).

Art Unit: 3621

As per **Claims 59, 62 and 80**, Shah et al further disclose wherein the information on the status of the vehicle includes the assignment of a driver for the vehicle (Figure 5; Col. 10, lines 50-52; Col. 15, lines 14-30).

As per **Claims 60 and 78**, Shah et al further disclose wherein the terminal includes a terminal for generating order confirmation (Col. 13, lines 10-45).

As per **Claims 61 and 79**, Shah et al further disclose means for generating reports from information collected by the system (Figure 11; Col. 13, lines 10-18).

As per **Claims 63 and 81**, Shah et al further disclose a host for creating/displaying a visual indication based on a criterion (Figures 5-6).

As per **Claims 64 and 82**, Shah et al further disclose a host for automatically changing information based on a criterion (Col. 15, lines 4-10, Col. 17, lines 12-27).

As per **Claims 65 and 83**, Shah et al further disclose a host for searching for information based on a criterion (Col. 15, lines 5-10).

As per **Claims 66-67 and 84-85**, Shah et al further disclose a host for controlling access to the system for changing information and identifying individuals who modify stored information (Figures 8, 10-11; Col. 11, lines 1-5; Col. 13, lines 20-45).

7. Claims 50-52 and 71-73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shah et al, U.S. Patent No. 5,636,122 and Jones, U.S. Patent Application Publication No. US 2003/0233190 A1 as applied above and further in view of Smith et al, U.S. Patent No. 6,430,496 B1.

Art Unit: 3621

As per **Claims 50-52 and 71-73**, Shah et al further disclose information regarding the dispatching of vehicles such as vehicle ready time, delivery time, service type, vehicle type and other information and further disclose that other forms of data may also be captured depending upon the particular application (Col. 13, lines 30-33; Col. 14, lines 50-55). Shah et al fail to explicitly disclose wherein the information includes whether the vehicle can be driven. Smith et al disclose a fully automated vehicle dispatching system and further teach wherein the system may store information regarding the vehicle such as whether it is available or not (Col. 1, lines 55-65; Col. 11, lines 34-40; Col. 14, lines 20-24) which indicates that the vehicle can be driven. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Shah et al and include information regarding the status of the vehicle such as whether it can be driven or not as suggested by Smith et al. This would enable the dispatchers to only dispatch vehicles which are available and can be driven.

Furthermore, the various types or elements of data that can be stored or maintained by the system such as whether the vehicle must be towed or whether a key for operating the vehicle is available are directed to non-functional descriptive material and are not functionally involved in the steps recited. The steps of storing or maintaining various types or forms of data would be performed the same regardless of the descriptive material since none of the steps explicitly interact therewith. Limitations that are not functionally interrelated with the useful acts, structure, or properties of the claimed invention carry little or no patentable weight. Thus, this descriptive material will not further distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would also have been obvious to a person of ordinary skill in the art at the time of applicant's invention to store or maintain by type or form of data because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. **Examiner's Note:** Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Byford discloses a parcel trace system and teach wherein clients enter orders for a package to be picked up and delivered including generating a bar code package identification label.
- Ramsden et al disclose an automated package shipping machine and teach wherein a user enters orders for a package to be picked up and delivered including package identification information

Art Unit: 3621

11. The prior art previously made of record and not relied upon is considered pertinent to applicant's disclosure.

- Nathanson et al disclose a transportation dispatch and delivery tracking system
- Trask discloses a vehicle allocation system
- Paredes discloses an automated vehicle dispatch system
- Bunn discloses an automated vehicle tracking and service provisioning system

Art Unit: 3621

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Hayes whose telephone number is (703)306-5447. The examiner can normally be reached Monday through Friday from 5:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim Trammell, can be reached on (703) 305-9768.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Please address mail to be delivered by the United States Postal Service (USPS) as follows:

**Mail Stop _____
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**

Please address mail to be delivered by other delivery services (Federal Express (Fed Ex), UPS, DHL, Laser, Action, Purolator, etc.) as follows:

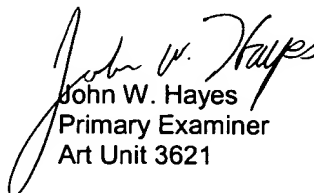
**U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window, Mail Stop _____
Crystal Plaza Two, Lobby, Room 1B03
Arlington, Virginia 22202**

or faxed to:

(703) 872-9306 [Official communications; including
After Final communications labeled
"Box AF"]

(703) 746-5531 [Informal/Draft communications, labeled
"PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7th floor receptionist.


John W. Hayes
Primary Examiner
Art Unit 3621

September 20, 2004